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Department of Energy  
Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

OCT 09 2007

08-AMCP-0008

Ms. J. A. Hedges, Program Manager  
Nuclear Waste Program  
State of Washington  
Department of Ecology  
3100 Port of Benton  
Richland, Washington 99354

RECEIVED  
OCT 12 2007

EDMC

Dear Ms. Hedges:

INITIATION OF DISPUTE RESOLUTION FOR HANFORD FEDERAL FACILITY AGREEMENT AND CONSENT ORDER (TRI-PARTY AGREEMENT) DISAPPROVAL OF INTERIM MILESTONE M-91-03 REQUIREMENT, DOE SHALL REVISE THE PROJECT MANAGEMENT PLAN TO INCLUDE PLANS AND SCHEDULES FOR LAND DISPOSAL RESTRICTION TREATMENT OF TRANSURANIC MIXED WASTE BY DECEMBER 28, 2006

- References:
- (1) Ecology ltr. to D. A. Brockman, RL, from D. G. Singleton, "Disapproval of the United States Department of Energy (USDOE) Revised M-91-03 Milestone Transuranic (TRU) Mixed/Mixed Low-Level Waste Project Management Plan (PMP), HNF-19169, Rev. 3," dtd. September 26, 2007.
  - (2) RL ltr. to J. A. Hedges, Ecology, from K. A. Klein, "Submittal of Revised M-91-03 Interim Milestone Transuranic (TRU) Mixed/Mixed Low-Level Waste Project Management Plan (PMP)," (07-AMCP-0070) dtd. December 27, 2006.

The purpose of this letter is to respond to the September 26, 2007, disapproval of the U.S. Department of Energy Revised Tri-Party Agreement Interim Milestone M-91-03, Transuranic Mixed/Mixed Low-Level Waste Project Management Plan, HNF-19169, Revision 3, and invoke dispute resolution with the State of Washington Department of Ecology (Ecology).

The Ecology September 26, 2007, letter, Reference (1), states that the Project Management Plan (PMP) "does not meet the M-91-03 Milestone." The PMP was submitted in Reference (2), on December 27, 2006, thus meeting the December 28, 2006, requirement. Pursuant to Article VIII Resolution of Disputes, paragraph 30 of the Tri-Party Agreement, the U.S. Department of Energy, Richland Operations Office (RL) objects to Ecology's assertion

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that the Tri-Party Agreement Interim Milestone M-91-03 requirement to submit a PMP by December 28, 2006, was not met and by this letter is notifying Ecology that it is entering into dispute.

Ecology has asserted that the PMP "is not a complete and adequate primary document" because it does not include CERCLA information as specified in critical issues 1 and 2 identified in Reference (1). Pursuant to Tri-Party Agreement Action Plan, Section 9.2.1 "Comments shall refer to any pertinent sources of authority or references upon which the comments are based and, upon request of the DOE, the commenting agency shall provide a copy of the cited authority or reference," RL requests that Ecology provide the sources of authority or references for requiring issues 1 and 2 to be included in the PMP.

At this point, without knowing the basis for critical issues 1 and 2, RL does not agree that the CERCLA information called for is appropriate for inclusion in the PMP. The Parties have agreed in the Settlement Agreement (SA) that was signed on October 23, 2003, per Tri-Party Agreement Change Package M-91-03-01 that "Ecology, EPA, and DOE have agreed to segregate RCRA and CERCLA milestone requirements in the interest of reaching resolution of disputes and pending litigation between Ecology and DOE." The segregation of RCRA and CERCLA was accomplished with Tri-Party Agreement Change Package M-16-03-03 that was also part of the SA. It requires the U.S. Department of Energy to provide a work plan for the acquisition of capabilities necessary to prepare transuranic and transuranic mixed waste generated by CERCLA cleanup actions. Both change packages went through public comment and were approved by the Parties in 2004.

RL looks forward to working with Ecology at the project manager level to informally resolve the Tri-Party Agreement Interim Milestone M-91-03 PMP dispute within 30 days. In order to address the CERCLA issues with all parties, it is suggested that the U.S. Environmental Protection Agency be included in the discussions of these issues in the dispute resolution process.

If you have any questions, please contact me, or your staff may contact, Matt McCormick, Assistant Manager for the Central Plateau, on (509) 373-9971.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Brockman".

David A. Brockman  
Manager

AMCP:GLS

cc: See Page 3

Ms. J. A. Hedges  
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cc: G. Bohnnee, NPT  
L. Buck, Wanapum  
N. Ceto, EPA  
R. H. Engelmann, EFSH  
S. Harris, CTUIR  
R. Jim, YN  
S. M. Joyce, FHI  
S. L. Leckband, HAB  
M. L. Mandis, Ecology  
K. Niles, ODOE  
R. E. Piippo, FHI  
K. M. Quigley, EFSH  
D. G. Singleton, Ecology  
R. R. Skinnarland, Ecology  
J. G. Vance, FFS  
Administrative Record (M-91) *M-091-03 H-0-12*  
Environmental Portal